HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE R.SUBHASH REDDY

W.P.NO. 18306 OF 2005

Dt. 10.2.2006

Between:

N.Basaveshwar Rao

…Petitioner

and

Government of A.P. Principal Secretary Endowments Departments and others

…Respondents.

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE R.SUBHASH REDDY

W.P.NO. 18306 OF 2005

JUDGMENT: (Per Hon'ble Mr. Justice Bilal Nazki)

This writ petition has been filed in public interest questioning the alleged inaction of the respondents 1 to 3 in not implementing the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act") with regard to Sri Balaji

Venkateshwara Swamy Temple of Chilukuru village, Moinabad Mandal, Ranga Reddy District and in not appointing a trust board and an Executive Officer to the said temple.

The petitioner submits that he retired as a Deputy Commissioner of Endowments and had served the department for 35 years. During his service he had strived hard for safeguarding huge endowment properties from encroachments and hostile claims. He claims to be a devotee of Sri Balaji Venkateshwara Swamy temple at Chilkur. The facts mentioned by him in the writ affidavit regarding the present controversy are that Sri Chilukuru Balaji Temple situated in Chilukuru village is a famous temple and was attracting lakhs of devotees from the entire state of Andhra Pradesh. This temple was constructed by the family of Gunala Reddy. For the purpose of performing Archakathavam in the temple the Gunala family brought Soundar Rajan family from Madras to the temple. The temple was registered under the Hyderabad Ecclesiastical Department set up by the then HEH the Nizam of Hyderabad. The temple was notified as a religious institution under Section 6 of the Act 30 of 1987. According to the petitioner, Chapter IV of Act 30 of 1987 deals with the registration of institutions under the Act and the administration and management of the institution registered under the Act must be carried out in accordance with the provisions of Chapter III of the Act. The net grievance of the petitioner is that although the institution has been registered under the Act, it is not being managed in terms of the Act, therefore he prays that the respondents 1 to 3 should be directed to implement the provisions of the Act with regard to Sri Balaji Venkateshwara Swamy Temple of Chilukuru village. Reference has been made to a judgment of this Court reported in *Purnam Ramachandram Vs. State of Andhra Pradesh and others* that since the temple is notified under the Act, therefore it has to be managed in terms of the Act.

4th respondent who claims to be Archaka-cum-Muthavali of the temple in question filed counter-affidavit in which it is stated that the temple was exempt from the purview of Section 144 of the Act. He

submitted that a committee had been appointed which had recommended that temples whose annual income below Rs.5,000/- should be allowed to be managed by the respective management of the temple and supervised by the committee. The Government issued a notification through G.O.Ms.No. 1272, Revenue (Endowments-I) dt. 27.6.2005 stating therein,

> "In exercise of the powers conferred under Section 154 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No. 30/87), Government of Andhra Pradesh hereby exempt all the temples notified under Section 6 © of Act No. 30/87 from the purview of Section 144 of the said Act until further orders."

It is contended that 32,098 temples have been exempted from the operation of Section 144 of the Act, therefore all Archakas continued to have their rights which they were holding subsequent to the Act. It is further stated that there was no income to the temple in question as there was no Hundi or any other seva tickets etc. The notification, dt. 28.6.2005 reads as under,

> "JUDGMENT OF THE HON'BLE SUPREME COURT OF INDIA IN WP NO. 638/87 AND ALSO ORDERFS DATED 9.5.1997 IN I.A.NO. 3 IN WP NO. 696/87 – EXEMPTION OF ALL THE TEMPLES NOTIFIED UNDER SECTION 6 © OF ANDHRA PRADESH CHARITABLE AND HINDU RELIGIOUS INSTITUTIONS AND ENDOWMENTS ACT, 1987 (ACT NO. 30/87 FROM THE PURVIEW OF SECTION 144 OF ACT NO. 30/87)

(G.O.Ms.No. 1272, Revenue, (Endowments-I),

27th June, 2005)

> In exercise of the powers conferred under Section 154 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No. 30/87), Government of Andhra Pradesh hereby exempt all the temples notified under Section 6 © of Act No. 30/87 from

the purview of Section 144 of the said Act until further orders."

Section 144 of the Act deals with abolition of shares in Hundi and other rusums. If this section is not applicable to the temple, that does not mean that the entire Act itself will not apply to the temple. Since it is a temple, which is a notified temple, therefore there cannot be any doubt that other provisions of the Act would apply. We would not like to go to the rival claims of the parties in view of the counter-affidavit filed by 3rd respondent. The 3rd respondent has stated in his counter-affidavit that steps will be taken to appoint a Board of Trustees under Section 15 of the Act as per rules. There are some applications/representations pending before the authorities as is stated in the counter-affidavit filed by 3rd respondent. Those applications/representations may be decided within a period of three months and a decision be also taken for constitution of a Board of Trustees under Section 15 of the Act within three months. The writ petition is accordingly disposed of.

Respondents 5 and 6 have filed W.P.M.P.Nos. 29430 and 28159 of 2005 for impleading in the writ petition. They have some grievance, and according to them, lakhs of rupees are collected by the present management from the devotees. This is a matter which will have to be considered by the respondents 1 to 3. These two applications are allowed. No costs.

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BNJ

Dt. 10.2.2006

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RSRJ

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